

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of: : Examiner: **J. W. Donnelly**  
**Yocum** :  
Serial No.: **10/828,621** : Group Art Unit: **3764**  
Filed: **April 22, 2004** : Date: August 1, 2008

**FOR: DEVICE AND METHOD FOR HOLDING STRIKING TARGETS FOR USE IN  
THE PRACTICE OF THE MARTIAL ARTS**

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Mail Stop - Amendment  
Commissioner of Patents and Trademarks

**REPLY TO RESTRICTION REQUIREMENT**

Sir:

Pursuant to the Office Action dated July 23, 2008 and received in regard to the above-identified application, please enter the following amendments and remarks.

**Provisional Election Of Claims**

The Applicant selects the apparatus claims, Claims 1-3, 5-7, 9, 10, 12 and 17-19 for the purposes of examination, with traverse.

**TRAVERSAL Of RESTRICTION REQUIREMENT**

The Applicant believes the Examiner's restriction to be improper.

This application has already been examined. The Examiner performed a search and examined ALL of the claims on the merits.

The Applicant has already amended the claims in view of the search and examination that was performed by the Examiner.

MPEP 803 states that **“if the search and examination of an entire application can be made without serious burden, the examiner MUST examine it on the merits, even though it includes claims to distinct or independent inventions.”**

The showing of a “serious burden” must be made if a restriction is to be proper. In the present case, the application has already been searched and the claims examined. If the search and examination has already occurred, how can these actions possibly present be a serious burden to the Examiner? The Examiner need only apply the search and the previous examination to the amended claims.

The Applicant therefore respectfully requests that the Examiner explain how he is seriously burdened by a continued examination of all claims since the search and examination have already occurred.

Since it is clear that the examination of all the pending claims will not burden the Examiner, the restriction criteria set forth in MPEP 803(2) has not been met and the restriction requirement is improper.

The Examiner is therefore respectfully requested to withdraw the restriction.

## **SUMMARY**

The application has already been search by the Examiner and examined on the merits. The Applicant has already amended the application in view of the Examiner’s search and examination. The request to restrict claims and selection species at this point in the examination cycle is without justification and unduly burdensome on the applicant.

If the Examiner has any questions regarding this application, the Examiner is requested to call the applicant’s attorney at (215) 321-6772 in order that any outstanding issues may be resolved without the necessity of issuing a further Office Action.

Respectfully Submitted,  
/Eric LaMorte/  
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